

AMENDMENT NO. TWO

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF HOLBROOK**

THIS AGREEMENT is entered into this date May 31, 2005, **Amendment Two** to JPA 00-149, AG Contract No. KR00-1783TRN, filed with the Secretary of State under No. 24339 pursuant to the provisions of Arizona Revised Statutes Section 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION, (the "State"), and the CITY OF HOLBROOK, acting by and through its MAYOR and CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 and 28-334 to enter into this Agreement and resolved to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

The parties hereto agree to Amend the above-referenced Agreement to: a) Change the Federal Aid contribution from \$280,000.00 to \$324,974.00 for the construction as was authorized by the FHWA on April 7, 2004. b) Add the Non-Availability of Funds and the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) to this Agreement under the Miscellaneous Provisions.

THEREFORE, in consideration of the mutual Agreements expressed herein, this Agreement is amended as follows:

#02
NO. 24339
Filed with the Secretary of State
Date Filed: 05/31/05
Janice K. Brewer
Secretary of State

By: David D. Greenwald

Article I, Paragraph 6 is deleted and replaced in full as follows:

6. The work embraced by this Agreement and the estimated cost is as follows: Construct Pedestrian Facility Improvements.

Construction: TRACS No. SL427 01C

Federal Aid Funds @ 94.3% (capped)	\$324,974.00*
Holbrook City Funds @ 5.7%	\$ 26,505.00
Estimated City of Holbrook @ 100%	<u>\$113,521.00</u>
Total Estimated Construction Cost	<u>\$465,000.00</u>

*Includes \$16,974.00 in Federal Aid to be applied to cost of Hazardous Material Abatement.

Article I, Paragraph 7 is added in full as follows:

7. It is further understood and agreed that the Federal Aid funds can only be used for the rehabilitation of the exterior of the Holbrook Train Depot and for Hazardous Material Abatement. The Federal Aid funds cannot be used for any construction on the interior of the building or for any portions that are not open free of charge to the public during normal business hours.

III. MISCELLANEOUS PROVISIONS**Article III, Paragraph 9 and 10 are added in full as follows:**

9. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

10. Non-Availability of Funds. Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

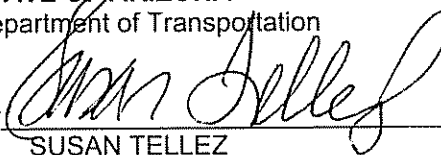
IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written

CITY OF HOLBROOK

By 
BRYAN SMITHSON
Mayor

STATE OF ARIZONA

Department of Transportation

By 
SUSAN TELLEZ
Contract Administrator


ATTEST

By 
CHER MILLAGE
City Clerk

APPROVAL OF THE CITY OF HOLBROOK

I have reviewed the above referenced intergovernmental Agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF HOLBROOK, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this Agreement

DATED this 26th day of April, 2005.


City Attorney

RESOLUTION 05-11

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF HOLBROOK, ARIZONA AUTHORIZING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF HOLBROOK AND THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE RAILROAD DEPOT RESTORATION

RECITALS

WHEREAS, pursuant to the provisions of Arizona Revised Statutes Section 11-951, as amended, between the STATE of ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION, (the "State"), and the CITY OF HOLBROOK, and

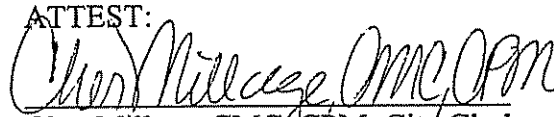
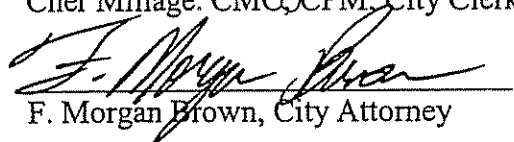
WHEREAS, the community and Council members of the City of Holbrook have made the Railroad Depot Restoration a priority, and

WHEREAS, the Council Members of the City of Holbrook obligates, per the Intergovernmental Agreement (TRACS No. SL427 01C), a cash match in the amount of \$140,026 to this opportunity and priority, therefore, be it

RESOLVED by the Mayor and Members of the City Council of Holbrook, Arizona To authorize and support the Railroad Depot Restoration the Intergovernmental Agreement with Arizona Department of Transportation to move this project forward.

PASSED AND ADOPTED this 26 day of May, 2005 by the Mayor and City Council Members of the City of Holbrook.


Bryan Smithson, Mayor

ATTEST:

Cher Millage, CMC, CPM, City Clerk

F. Morgan Brown, City Attorney



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE: 602.542.8855

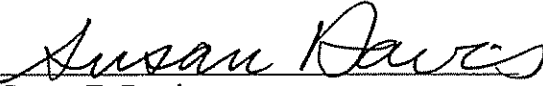
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR00-1783TRN (JPA 00-149, Amendment No. Two), an Agreement between public agencies, i.e., *The State of Arizona* and *The City of Holbrook*, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: May 24, 2005

TERRY GODDARD
Attorney General


Susan E. Davis
Assistant Attorney General
Transportation Section

SED:mjf
Attachment
906599